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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROY MORRISON,

Plaintiff,

No. C 05-04351 JSW

v.

ALBERTO GONZALES, et al.,

Defendants.

**ORDER RE DEFENDANT'S EX
PARTE MOTION IN LIMINE
PURSUANT TO FED. R. CIV. P. 26
& 37(c) AND REQUEST, IN THE
ALTERNATIVE, TO TAKE
ADDITIONAL DISCOVERY**

On April 11, 2007, Defendant filed an ex parte motion in limine with respect to his pending motion for summary judgment. In that motion, Defendant asked the Court to exclude a letter dated May 7, 2004 on the ground that it was belatedly produced. Defendant asked that if the Court was not inclined to exclude the letter, that he be permitted to depose Plaintiff on the circumstances surrounding discovery of the letter.

Because the Court did not rely on the letter in resolving Defendant's motion for summary judgment, the Court denies as moot the request to exclude the letter from consideration on summary judgment. However, to the extent Plaintiff intends to introduce the letter at trial, Plaintiff shall submit an opposition to Defendant's motion in limine in accordance with the filings due in advance of the pretrial conference.

The Court grants Defendant's request to reopen discovery solely for the limited purpose of deposing Plaintiff on the circumstances surrounding his discovery of the May 7, 2004 letter. That deposition must be completed in advance of the pretrial conference, and if the parties require additional time to complete the briefing on this motion in limine, a joint request shall be

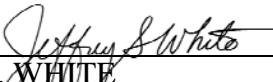
1 granted.

2 **IT IS SO ORDERED.**

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4 Dated: May 9, 2007

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10 JEFFREY S. WHITE
11 UNITED STATES DISTRICT JUDGE